

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

The Woodlands Pride, Inc.; Abilene  
Pride Alliance; Extragrams, LLC; 360  
Queen Entertainment LLC; Brigitte  
Bandit,

Plaintiffs,

v.

Civil Action No. 4:23-cv-02847

Angela Colmenero, in an official  
capacity as Interim Attorney General of  
Texas; The Woodlands Township;  
Montgomery County, Texas; Brett  
Ligon, in an official capacity as District  
Attorney of Montgomery County; City  
of Abilene, Texas; Taylor County,  
Texas; James Hicks, in an official  
capacity as District Attorney of Taylor  
County; Delia Garza, in an official  
capacity as County Attorney of Travis  
County; Joe D. Gonzalez, in an official  
capacity as District Attorney of Bexar  
County,

Defendants.

**PLAINTIFFS' UNOPPOSED MOTION FOR LEAVE TO PROCEED  
UNDER A PSEUDONYM**

Plaintiffs The Woodlands Pride, Inc.; Abilene Pride Alliance; Extragrams, LLC; 360 Queen Entertainment LLC; and Brigitte Bandit (collectively, “Plaintiffs”) bring this Motion for Leave to Proceed Under a Pseudonym (hereinafter, “Motion”) for Plaintiff Brigitte Bandit in order to protect her safety and privacy.

### **STANDARD OF REVIEW**

Federal Rule of Civil Procedure 10(a) requires a complaint to name each of the parties, but courts are permitted “to accommodate a plaintiff’s asserted need to proceed anonymously through the use of a fictitious name.” *Doe v. Stegall*, 653 F.2d 180, 185 (5th Cir. 1981). Although there is “no hard and fast formula for ascertaining whether a party may sue anonymously,” *id.* at 186, courts may weigh the “maintenance of a party’s privacy against the presumption of openness in judicial proceedings.” *Doe v. CoreCivic, Inc.*, No. 4:20-CV-01828, 2020 WL 3640058, at \*1 (S.D. Tex. July 6, 2020) (Eskridge, J.).

In determining whether a plaintiff’s privacy interests outweigh the public’s interests in an open judicial proceeding, courts consider the totality of the circumstances, including: “(1) whether the plaintiff is challenging governmental activity; (2) whether the plaintiff would be required to disclose information of the utmost intimacy; or (3) whether the plaintiff would be compelled to admit his intention to engage in illegal conduct, thereby risking criminal prosecution.”

*W.D.O. v. Harris Cnty. Sheriff Dep't*, No. CV H-05-2978, 2005 WL 8169263, at \*2 (S.D. Tex. Dec. 5, 2005) (Rosenthal, J.) (quoting *Southern Methodist Univ. Assoc. of Women Law Students v. Wynne & Jaffe*, 599 F.2d 707, 712–13 (5th Cir. 1979)). Courts also consider (4) potential threats of violence, (5) the prejudicial impact on the defendants if the plaintiff is allowed to proceed anonymously, and (6) fairness to the public. *Doe v. Bd. of Supervisors of Univ. of Louisiana Sys.*, No. CV 22-00338-BAJ-SDJ, 2022 WL 17070549, at \*2 (M.D. La. Nov. 17, 2022).

### **ARGUMENT**

The totality of the circumstances and every factor weigh in favor of granting Plaintiff Brigitte Bandit's request to proceed through the use of a pseudonym.

*First*, Plaintiff Brigitte Bandit is suing to challenge governmental action threatened against her. *Second*, the prosecution of this case requires Plaintiff Brigitte Bandit to disclose intimate and private details about her drag artistry, accessories, prosthetics, underwear, and outwear. *Third*, in bringing this court challenge, Plaintiff Brigitte Bandit is admitting her intention to engage in activity arguably made illegal by SB 12.

*Fourth*, Plaintiff Brigitte Bandit has already been the target of harassment and threats of violence, which will significantly worsen if her legal name is made public on the Court's docket. *See* Declaration of Brigitte Bandit, attached hereto as Exhibit 1. Other people have recently called Brigitte a "deviant who doesn't belong

with [sic] 500 feet of any children” and said, “I think groomers should be a little afraid”; “They should be terrified”; “You can run but you cannot hide”; and “Kill it with fire.” Someone also posted a picture of someone throwing a cinderblock with the words “COME HERE” written on top of it. *Id.* Since filing this lawsuit, Brigitte has had to make some of her social media accounts private because of the vitriol and threats she has received, and exposing her legal name would make it easier for people to target her, harass her, and find her physical address if they intend to turn their threats into violence. *Id.*

*Fifth*, none of the Defendants in this case will be prejudiced if Brigitte Bandit proceeds under her pseudonym. If requested, Brigitte is willing to enter a protective order in this case and share her legal name and other personal information with Defendants and the Court, while still maintaining her pseudonymity with the public. *Sixth*, the public’s interest in free and open access to information in this proceeding will not be impaired by allowing Brigitte to use a pseudonym on the Court’s docket. The public will still have full and open access to all records in this case, apart from any documents filed under seal or shared via a protective order. On balance, the significant privacy and safety concerns at issue far outweigh the very limited intrusion on the public’s access to open courts. Plaintiffs respectfully request the Court grant Brigitte Bandit’s request to proceed under a pseudonym.

Respectfully submitted,

/s/Brian Klosterboer

Brian Klosterboer, *attorney-in-charge*

TX Bar No. 24107833

SDTX No. 3314357

Chloe Kempf

TX Bar No. 24127325

SDTX No. 3852674

Thomas Buser-Clancy

TX Bar No. 24078344

SDTX No. 1671940

Edgar Saldivar

TX Bar No. 24038188

SDTX No. 618958

Adriana Pinon

TX Bar No. 24089768

SDTX No. 1829959

ACLU FOUNDATION OF TEXAS, INC.

P.O. Box 8306

Houston, TX 77288

Tel. (713) 942-8146

Fax (713) 942-8966

bklosterboer@aclutx.org

ckempf@aclutx.org

tbuser-clancy@aclutx.org

esaldivar@aclutx.org

apinon@aclutx.org

Derek McDonald

TX Bar No. 00786101

SDTX No. 18546

Maddy Dwertman

TX Bar No. 24092371

SDTX No. 3853795

BAKER BOTTS L.L.P.

401 S. 1<sup>st</sup> Street, Suite 1300

Austin, TX 78704

Tel. (512) 322-2500

Fax (512) 322-2501

Derek.McDonald@BakerBotts.com

Maddy.Dwertman@BakerBotts.com

Brandt Thomas Roessler

TX Bar No. 24127923

SDTX No. 3853796

BAKER BOTTS L.L.P.

30 Rockefeller Plaza

New York, NY 10112

Tel. (212) 408-2500

Fax (212) 408-2501

Brandt.Roessler@BakerBotts.com

Ali Andrews

TX Bar No. 24059381

SDTX No. 2247339

BAKER BOTTS L.L.P.

910 Louisiana Street

Houston, TX 77002

Tel. (713) 229-1533

Fax (713) 229-2833

Ali.Andrews@BakerBotts.com

*Attorneys for Plaintiffs*

### **CERTIFICATE OF CONFERENCE**

Plaintiffs notified Defendants of their intent to file this motion for leave to proceed under a pseudonym on August 8, 2023, and again on August 14, 2023. All Defendants are unopposed to this Motion. Defendant Angela Colmenero does not oppose using a pseudonym at this stage; however, she reserves the right to take it up with the Court if/when there are grounds to do so.

/s/Brian Klosterboer  
Brian Klosterboer

### **CERTIFICATE OF SERVICE**

The undersigned certifies that on the 15th day of August, 2023, a true and correct copy of the above document was served via the CM/ECF system to all counsel of record and via e-mail to all Defendants and counsel who have not yet appeared on CM/ECF.

/s/Brian Klosterboer  
Brian Klosterboer